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Tenesha Hudspeth
County Clerk
Harris County

Harris County - County Civil Court at Law No. 2

Jury Fee Paid

CAUSE NO. _____

BEATRICE CONTRERAS a/n/f S.C.

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IN THE CIVIL COURT OF

V.

HARRIS COUNTY, TEXAS

WAL-MART, STORES TEXAS, LLC.

COUNTY COURT AT LAW NO. _____

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

S.C.

COMES NOW, Beatrice Contreras a/n/f [REDACTED], (hereinafter "Plaintiff"), in the above entitled and numbered cause, complaining of and against Wal-Mart Stores Texas, LLC (hereinafter "Defendant"), and for cause of action would respectfully show unto the Court and Jury the following:

A. DISCOVERY CONTROL PLAN

1. Plaintiff intends to conduct discovery under Level 2 of Texas Rule of Civil Procedure 190.2.

B. PARTIES

2. Plaintiff is a resident of Harris County, Texas.
3. Defendant is a foreign corporation doing business in the State of Texas, and may be served by and through its registered agent for service of process, CT Corporation System at 1999 Bryan St., Suite 900 Dallas, Texas 75201.

C. JURISDICTION AND VENUE

4. This Court has jurisdiction over all of the parties and the subject matter involved in this litigation.
5. Venue is proper in Harris County, Texas pursuant to Tex. Civ. Prac. & Rem. Code §15.002(a)(1) because all or a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in Harris County.

D. FACTS

6. On or about April 24, 2020, Plaintiff was an invitee-customer in a Walmart Supercenter controlled by Defendant and located at 111 Yale Street, Houston, Texas 77007. After exiting the store, Plaintiff walked beside her mother in the parking lot, heading towards her and her mother's vehicle. As Plaintiff and her mother were traversing the parking lot, a sharp metal piece from Defendant's corroded shopping cart pierced Plaintiff's left ankle.

7. Defendant knew or should have known about the unreasonable condition on the premises in the form of the dangerous shopping cart. Defendant's failure to eliminate or warn of such dangerous condition proximately caused the Plaintiff's injury.

E. CAUSES OF ACTION

PREMISES LIABILITY

8. At the time of the accident made the basis of this suit:

- (1) Defendant had actual or constructive knowledge of the unsafe condition on the premises, namely the corroded shopping cart;
- (2) The condition posed an unreasonable risk of harm;
- (3) Defendant did not exercise reasonable care to reduce, warn of, or eliminate the risk, and;
- (4) Defendant's failure to use such care proximately caused Plaintiff's injuries.

9. Defendant is vicariously liable for the negligent actions and/or omissions of its employees via the doctrine of *respondeat superior*.

G. DAMAGES

10. Defendant's actions and/or omissions were a proximate cause of the occurrence and of the following injuries and damages suffered by Plaintiff:

- a. Plaintiff has incurred reasonable and necessary medical expenses in the past, and, in all reasonable medical probability, will incur reasonable and necessary medical expenses in the future;
- b. Plaintiff has suffered physical pain and suffering in the past, and, in all reasonable probability, will continue to suffer physical pain in the future;
- c. Plaintiff has suffered mental anguish in the past and, in all reasonable probability, will continue to suffer mental anguish in the future;
- d. Plaintiff has suffered physical disfigurement in the past and, in all reasonable probability, will continue to suffer physical disfigurement in the future;
- e. Plaintiff has suffered physical impairment in the past and, in all reasonable probability, will continue to suffer physical impairment in the future;
- f. Loss of earnings and earning capacity reasonably anticipated to be suffered by Plaintiff [REDACTED] in the future; and
S.C.
- g. Loss of property

11. Plaintiff seeks damages in an amount that is within the jurisdictional limits of the court, but not to exceed \$250,000.00.

H. DEMAND FOR JURY

12. Plaintiff demands a jury trial and tenders the appropriate fee with the Original Petition.

J. PRAYER

13. WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that Defendant be cited to appear and answer this suit, and that upon final trial, she have judgment against Defendant for actual damages, prejudgment interest and post-judgment interest at the highest rate provided by law, costs of court, and all other relief, both general and special, at law or in equity, to which she may show herself justly entitled.

Respectfully submitted,

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ATTORNEYS FOR PLAINTIFF

BEATRICE CONTRERAS a/n/f S.C.

[REDACTED]

CAUSE NO. 1164212

BEATRICE CONTRERAS a/n/f S.C.	*	IN THE COUNTY COURT
	*	
Plaintiffs	*	
	*	
VS.	*	AT LAW NO. 2
	*	
WALMART STORES TEXAS, LLC	*	
Defendant	*	HARRIS COUNTY, TEXAS

ORIGINAL ANSWER OF DEFENDANT WALMART STORES TEXAS, LLC

TO HONORABLE JUDGE OF SAID COURT:

Defendant, WALMART STORES TEXAS, LLC files its original answer.

1. Pursuant to Rule 92 of the Texas Rules of Civil Procedure, WALMART STORES TEXAS, LLC asserts a general denial.

WHEREFORE, PREMISES CONSIDERED, Defendant prays that Plaintiffs take nothing by reason of this suit herein, and that Defendant goes hence without day, and recover its costs.

Respectfully submitted,

MEHAFFY WEBER, P.C.

/s/Karen L. Spivey
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ATTORNEY FOR DEFENDANT,
WALMART STORES TEXAS, LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Defendant's Answer has been forwarded to opposing counsel of record by electronic filing, on this 3rd day of March, 2021.

/s/ Karen L. Spivey

KAREN L. SPIVEY

CAUSE NO. 1164212

BEATRICE CONTRERAS a/n/f S.C.

IN THE COUNTY COURT

Plaintiffs

VS.

WALMART STORES TEXAS, LLC

Defendant

AT LAW NO. 2

HARRIS COUNTY, TEXAS

JURY DEMAND

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW WALMART STORES TEXAS, LLC, Defendant in the above cause, and pursuant to Rule 216 of the Texas Rules of Civil Procedure demands a trial by jury.

WALMART STORES TEXAS, LLC is tendering the required fee with its jury demand.

Respectfully submitted,

MEHAFFY WEBER, P.C.

/s/Karen L. Spivey

KAREN L. SPIVEY

SBN: 18955100

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ATTORNEY FOR DEFENDANT,

WALMART STORES TEXAS, LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Jury Demand has been forwarded to opposing counsel of record by electronic filing on this 3rd day of March, 2021.

/s/ Karen L. Spivey

KAREN L. SPIVEY